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SERVICE DATE – SEPTEMBER 26, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35176]

Georgia Southwestern Railroad, Inc.—Acquisition Exemption—CSX Transportation, Inc.

Georgia Southwestern Railroad, Inc. (GSWR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by purchase from CSX Transportation, Inc. (CSXT), approximately 1.6 miles of rail line, extending from milepost SLC-96.66 to the end of the line, near Lynn, GA, and consisting of Tracks SV 4 (6,875 feet), SV 12 (1,360 feet), and SV 14 (400 feet), in Decatur County, GA.¹

GSWR certifies that its projected annual revenues as a result of this transaction will not result in GSWR's becoming a Class II or Class I rail carrier. Because GSWR's projected annual revenues will exceed \$5 million, GSWR is required, at least 60 days before an exemption is to become effective, to send notice of the transaction to the national and local offices of the labor unions with employees on the affected lines and post a copy of the notice at the workplace of the employees on the affected lines and certify to the Board that it has done so. 49 CFR 1150.42(e).

¹ According to GSWR, since 1989, GSWR and its predecessor, South Carolina Central Railroad Company, have maintained and operated the line. See South Carolina Central Railroad Company, Inc.—Purchase and Lease—CSX Transportation, Inc., Lines in Georgia and Alabama, Finance Docket No. 31360 (ICC served May 4, 1989). GSWR also states that it currently leases and operates the line, and, after the acquisition, will continue to be the operator of the line.

On September 2, 2008, GSWR certified to the Board that, on August 29, 2008, it posted a notice at the workplace of the employees on the affected lines, as required under 49 CFR 1150.42(e). GSWR does not specifically address whether it sent the required notice of the transaction to the national and local offices of the labor unions with employees on the affected lines, as also required under section 1150.42(e), but states that no employees working on the affected lines are members of a labor union. However, concurrently with its notice of exemption, GSWR filed a petition for waiver of the 60-day advance labor notice requirement under section 1150.42(e), asserting that no CSXT employee will be affected by the sale because no CSXT employee has performed operations or maintenance on the line in nearly 20 years and that no GSWR employee will be affected because GSWR will continue to provide the same service and perform the same maintenance as it has for nearly 20 years. GSWR's waiver request will be handled in a subsequent decision.

GSWR states that it intends to consummate the transaction on or shortly after the effective date of this exemption. The Board will establish in the decision on the waiver request the earliest this transaction may be consummated.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than 7 days before the exemption becomes effective.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161 § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35176, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: September 19, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary